

Cem

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

UNITED STATES OF AMERICA,

Plaintiff,

v.

Gabriel MACIEL-Moreno,

Defendant

Magistrate Docket No.

080818025 APR 12:00

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIACOMPLAINT FOR VIOLATION OF:

BY

DEPUTY

Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States

The undersigned complainant, being duly sworn, states:

On or about **February 24, 2008** within the Southern District of California, defendant, **Gabriel MACIEL-Moreno**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.


And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


 SIGNATURE OF COMPLAINANT

Ismael Canto

Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **25th** DAY OF **FEBRUARY**
2008


 Nita L. Stormes

UNITED STATES MAGISTRATE JUDGE

Gabriel MACIEL-Moreno

PROBABLE CAUSE STATEMENT

On February 24, 2008, Border Patrol Agent J. Velardes along with Agent P. Wiedenmayer were patrolling an area near Tecate, California. At approximately 2:00 a.m. Agent Weidenmayer and Agent Velarde responded to a call out by the Scope operator. The Scope operator stated that he observed a group of approximately seven individuals traveling north from State Route 94, near the Tecate Mountain. This area is located approximately three and a half miles west of the Tecate, California Port of Entry, and approximately two miles north of the International Border Boundary between Mexico and the United States. This is an area commonly traveled by illegal aliens to further their entry into the United States. This is a very remote area consisting of rugged mountainous terrain. After hiking to the location where the scope last observed the group approximately 300 yards north of State Route 94, Agent Velarde heard brush breaking to his south approximately five minutes later he found two individuals hiding in a bush. Agent Wiedenmayer and Agent Velarde continued to search further. About one hundred yards to the west Agent Velarde saw what appeared to be a person's foot in some dense brush. Agent Velarde approached the area and noticed that it was a man who was hiding. Agent Velarde called him out from the brush and identified himself as United States Border Patrol Agent in both the English and Spanish languages and questioned each person as to their citizenship and legal right to be in the United States.

All of the individuals, including one later identified as the defendant **MACIEL-Moreno, Gabriel**, stated that they had were born in Mexico and were citizens and nationals of Mexico. When asked if they possessed any valid U.S. Immigration documents allowing them to enter into or remain within the United States legally, the defendant and the other individuals stated that they did not. All subjects were arrested and transported to the United States Border Patrol Brown Field Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on or about **February 20, 2008**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally.